

**Title 37-B: DEFENSE, VETERANS AND EMERGENCY
MANAGEMENT HEADING: PL 1997, c. 455, §9 (rpr)**

Chapter 3: MILITARY BUREAU

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Chapter 3: MILITARY BUREAU

Subchapter 1: ORGANIZATION OF STATE MILITARY FORCES

§101. PURPOSE

The Military Bureau has jurisdiction over and responsibility for the administration of the state military forces and the Maine Military Authority. [2003, c. 342, §1 (AMD).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2003, c. 342, §1 (AMD).

§101-A. DEFINITIONS

1. Active state service. As used in this Title, "active state service" means all military duty performed as a member of the state military forces pursuant to this Title or the United States Code, Title 32.

[1995, c. 196, Pt. B, §1 (AMD) .]

2. Military forces. "Military forces" means the state military forces, as defined in section 102.

[1987, c. 230, §1 (NEW) .]

SECTION HISTORY

1987, c. 230, §1 (NEW). 1995, c. 196, §B1 (AMD).

§102. COMPOSITION

1. State military forces. The state military forces shall consist of:

A. The Maine Army National Guard and the Maine Air National Guard, referred to in this Title as the "National Guard," when either or both are not in federal service, but not the Maine Military Authority; and [2003, c. 342, §2 (AMD).]

B. The militia, the naval militia and the Maine State Guard when and if organized by direction of the Governor pursuant to the authority set forth in subchapter IV. [2001, c. 662, §15 (AMD).]

[2003, c. 342, §2 (AMD) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §15 (AMD). 2003, c. 342, §2 (AMD).

§103. COMMANDER IN CHIEF

The Governor shall be the constitutional Commander in Chief of the military forces of the State, except for components thereof which may, at times, be in the service of the United States. It shall be the duty of the Governor as Commander in Chief to prescribe orders, rules and other administrative procedures necessary to maintain the standard of organization and armament for the state military forces required by the laws and

regulations of the United States. Subject to regulations prescribed by the federal military establishment, the Governor shall establish administrative procedures necessary to insure that adequate numbers of officers, warrant officers and enlisted men are appointed, commissioned and enlisted into the state military forces. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§104. GOVERNOR'S MILITARY STAFF

The military staff of the Governor as Commander in Chief consists of: [2001, c. 662, §16 (AMD).]

1. Adjutant General. The Adjutant General, who is chief of staff;

[2001, c. 662, §16 (AMD).]

2. Senior staff officers. The senior officer on duty with each of the staff sections organized under section 105; and

[1983, c. 460, §3 (NEW).]

3. Other staff officers. Other staff officers as appointed from time to time

[2001, c. 662, §16 (AMD).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §16 (AMD).

§105. STAFF ORGANIZATION

The Governor may create, organize, abolish or reorganize staff sections that the Governor determines necessary to provide for the National Guard, other state military forces and the Maine Military Authority and appoint staff officers necessary to provide for the operation of the staff sections. Officers of those sections shall perform the duties required of them by law and those other duties not inconsistent with the laws of the State that correspond to the duties performed by officers in corresponding staff sections in the federal military establishment. [2003, c. 646, §4 (AMD).]

1. Personnel.

[1993, c. 680, Pt. A, §32 (RP).]

2. Contracts, leases, agreements, authorizations, notes or bonds.

[1993, c. 680, Pt. A, §32 (RP).]

3. Maine Veterans' Home Bonding Authority.

[1993, c. 680, Pt. A, §32 (RP).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1987, c. 370, §12 (AMD). 1993, c. 680, §A32 (RPR). 2003, c. 646, §4 (AMD).

§106. ASSISTANT ADJUTANTS GENERAL

The Adjutant General may, subject to the approval of the Governor, appoint an assistant adjutant general for the Maine Army National Guard and an assistant adjutant general for the Maine Air National Guard, each with the qualifications set forth in section 107, who may hold the grade of brigadier general and shall serve at the pleasure of the Adjutant General. The assistant adjutant general for the Maine Army National Guard shall be responsible for the general supervision of training and administration of the Maine Army National Guard and the assistant adjutant general for the Maine Air National Guard shall be responsible for the general supervision of training and administration of the Maine Air National Guard. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§107. QUALIFICATIONS FOR APPOINTMENT OF ADJUTANT GENERAL AND ASSISTANT ADJUTANT GENERAL

A person appointed Adjutant General or assistant adjutant general must have attained the federally recognized rank of Colonel in the Maine National Guard and meet the criteria for federal recognition as a General Officer for either the United States Army National Guard or the United States Air National Guard as prescribed by federal service regulations. [2011, c. 112, §2 (AMD).]

1. Hold commission.

[1999, c. 291, §1 (RP) .]

2. Service.

[1999, c. 291, §1 (RP) .]

3. Meet federal criteria for recognition.

[1999, c. 291, §1 (RP) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §3 (AMD). 1999, c. 291, §1 (RPR). 2011, c. 112, §2 (AMD).

§108. DESIGNATION OF DEPUTY ADJUTANT GENERAL

The assistant adjutant general for the Maine Army National Guard or the assistant adjutant general for the Maine Air National Guard may be appointed as Deputy Adjutant General. The Deputy Adjutant General has all the military related powers, responsibilities and duties of the Adjutant General if the Adjutant General is unable to act, or in case of a vacancy in the office of the Adjutant General until the vacancy is filled by the Governor, as provided by law. The Deputy Adjutant General may also perform other military duties of the Adjutant General as assigned by the Adjutant General or the Governor. [1991, c. 376, §64 (AMD).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 512, §1 (RPR). 1991, c. 376, §64 (AMD).

§109. DEPUTY ADJUTANT GENERAL AS BUREAU DIRECTOR (REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 1987, c. 634, §4 (RP).

§110. OTHER STAFF; AIDES-DE-CAMP

(REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §17 (RP).

§110-A. HONORARY MILITARY STAFF

The honorary military staff may consist of not more than 11 aides-de-camp commissioned by the Governor to serve during the Governor's term. Honorably discharged officers or enlisted personnel who served in the Army, Air Force, Navy, Coast Guard or Marine Corps during any war and who are not members of the state military forces may be appointed as aides-de-camp with the rank of colonel. One may be a naval aide with the rank of captain and one may be an Air Force aide with the rank of colonel. Aides-de-camp may be detailed from the commissioned officers of the state military forces, but officers so detailed may not be relieved from their regular duties, except when on duty with the Commander in Chief. [2001, c. 662, §18 (NEW).]

SECTION HISTORY

2001, c. 662, §18 (NEW).

§111. ENLISTED PERSONNEL

As used in this chapter, "enlisted man" or "enlisted men" means enlisted personnel, male or female. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§112. JOINT FORCE HEADQUARTERS

The Adjutant General shall organize a staff to be called the Joint Force Headquarters. It shall command, control and supervise Army and Air National Guard units employed in support of civil authorities in the protection of life, property and preservation of peace, order and public safety under competent orders of state authorities. In the event of mobilization of some or all Army and Air National Guard units by the President of the United States, it shall assist the State in organizing and training a militia, if required, perform command and control functions in support of civil authorities, as directed, and prepare to reconstitute the Army National Guard and Air National Guard when units are relieved from federal service. It must be commanded by a federally recognized officer who may be the Adjutant General or an Assistant Adjutant General. [2013, c. 251, §3 (AMD).]

SECTION HISTORY

1985, c. 16, (NEW). 2001, c. 662, §19 (AMD). 2013, c. 251, §3 (AMD).

Subchapter 2: ADMINISTRATION**§141. MILITARY BUREAU ACCOUNTS; MILITARY FUND**

All military accounts, unless otherwise specially provided by law, shall be approved by the person authorized to contract the accounts and transmitted to the Adjutant General for his examination and approval. They shall then be presented to the State Controller. [1983, c. 460, §3 (NEW).]

For the current expenses of the state military forces, there shall be appropriated biennially a sum known as the "Military Fund" which is necessary for the proper administration of the Military Bureau. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§142. MILITARY PERSONNEL; APPOINTMENT OF OFFICERS; ENLISTMENT OF ENLISTED PERSONNEL

Except as otherwise provided in this chapter, the qualifications for appointment of officers and enlistment of enlisted personnel and the procedures for promoting, transferring, discharging, equipping, uniforming and training personnel of the state military force shall be consistent with federal laws and regulations prescribed for the National Guard. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§143. PAY AND ALLOWANCES

1. Pay and allowances. Members of the Maine National Guard ordered to active state service under this Title, except under section 150, are entitled to receive at least the same pay and allowance as would be payable to those persons from the United States Armed Forces. The member's pay, except for that pay of those members serving under section 150, must include a minimum pay based upon at least 12 hours a day at the state minimum wage.

[1997, c. 455, §13 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §4 (AMD). 1997, c. 455, §13 (RPR).

§144. CIVILIAN EMPLOYEES

The Commander in Chief may authorize the employment of civilian personnel in organizations in which there are vacancies of necessary personnel when the organizations are on duty under his orders or are called upon in aid of civil authorities. These civilian personnel, during this employment, are subject to the laws and regulations for the government of the state military forces and shall receive pay commensurate with these duties. [1983, c. 594, §5 (RPR).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §5 (RPR).

§145. PROPERTY AND FISCAL OFFICER

The Governor shall, subject to the approval of the United States Secretary of the Army or the United States Secretary of the Air Force, designate a qualified commissioned officer of the Maine National Guard to be the United States property and fiscal officer. [1983, c. 460, §3 (NEW).]

1. Status; United States property and fiscal officer. The status of the United States property and fiscal officer shall be that of a National Guard commissioned officer of the Army or Air Force, as appropriate, on extended active duty and detailed with the United States Department of Defense, National Guard Bureau for administrative purposes.

[1983, c. 460, §3 (NEW) .]

2. Bond. The United States property and fiscal officer shall give a bond to the United States for the faithful performance of his duties and for the safekeeping and proper disposition of federal property and funds entrusted to his care. The amount of the bond shall be determined by the United States Secretary of the Army or the United States Secretary of the Air Force.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§146. PROPERTY PURCHASE

1. Conflict of interest. No officer authorized to make purchases or sales of military property may be personally interested, directly or indirectly, in the purchase or sale of the property; nor may an officer take pay other than that allowed by law for negotiating or transacting the business of his office.

[1983, c. 460, §3 (NEW) .]

2. Inspection of property. All property purchased under the authority of this chapter shall be inspected by an officer designated by the Adjutant General. No payment may be made for the property until the inspecting officer certifies that the property is of the kind and quality specified in the contract of purchase.

[1983, c. 460, §3 (NEW) .]

3. Indebtedness contracted without authorization. No officer or enlisted member may contract or authorize the contracting of any indebtedness on behalf of the State, unless expressly authorized to do so.

[2001, c. 662, §20 (AMD) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §20 (AMD).

§147. RETIRED OFFICERS AND RETIRED LIST

Officers are retired from the state military forces and placed on the retired list as follows. [2001, c. 662, §21 (AMD) .]

1. Discharge. Any officer who accepts an appointment in the Army, Air Force, Navy, Marine Corps or Coast Guard of the United States, or who resigns from service, must receive an honorable discharge, only if:

A. That person is not under arrest or returned to a military court for any deficiency or delinquency;

[2001, c. 662, §21 (AMD) .]

B. That person is not indebted to the State in any manner; and [2001, c. 662, §21 (AMD) .]

C. The accounts of that person for money and public property are correct. [2001, c. 662, §21 (AMD) .]

[2001, c. 662, §21 (AMD) .]

2. Rights. Any person who has served as a commissioned officer in the state military forces for at least 9 years may, upon personal request, be placed upon the retired list. When placed upon the retired list, an officer must be given the highest rank that person held and federally recognized during the person's term

of service. Retired officers are entitled to wear the uniform of the rank with which they were retired. No commissioned officer in the state military forces may be removed from office without the person's consent, except by sentence of a court-martial or by a board of officers in a manner prescribed by law.

[2003, c. 583, §5 (AMD) .]

3. Active state service. Whenever the occasion requires, the Governor, the Adjutant General or Deputy Adjutant General, with the individual's consent, may order to active state service any retired officer, warrant officer or enlisted person, with or without pay and allowances of that person's grade while performing the service.

[2001, c. 662, §21 (AMD) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1995, c. 196, §A1 (AMD). 2001, c. 662, §21 (AMD). 2003, c. 583, §5 (AMD).

§148. DISCHARGE

An enlisted person discharged from the state military forces shall receive a discharge in the form and with the classification prescribed for the federal military establishment. Discharges may be given prior to the expiration of periods of enlistment under these regulations, not inconsistent with those established by the national military establishment for the government of the National Guard, as the Governor may prescribe. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§149. NEW ORGANIZATIONS

When authorized by the national military establishment, new organizations may be raised on petition to the Governor, or by his order. When the minimum number of persons required by law has been enlisted and notice thereof given to the Governor, he shall order an inspection to be made by an officer of the National Guard, and if it is found that the condition contemplated by law for federal recognition can be met by the new organization, the Governor shall appoint commissioned officers for the new unit and request an inspection to be made by an officer of the national military establishment with a view to federal recognition. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§150. UNAUTHORIZED VOLUNTEER SERVICE

A unit of the state military forces may not perform any voluntary active state service, unless authorized by express order of the Governor. [1995, c. 196, Pt. A, §2 (AMD).]

An officer, warrant officer or enlisted person or any retired officer, retired warrant officer or retired enlisted person of the state military forces may not perform any voluntary active state service, unless authorized by express order of the Governor, the Adjutant General or the Deputy Adjutant General. [1995, c. 196, Pt. A, §2 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1995, c. 196, §A2 (AMD).

§151. MILITARY LODGING FUND

The Military Bureau may operate and maintain lodging facilities for military personnel and collect a quarters fee on behalf of both the federal government and the Military Bureau. The fees will fund these lodging facilities. That portion of the fees due the Federal Government will be transferred to the United States Property and Fiscal Officer on a quarterly basis or as requested. Any balances remaining at the end of the fiscal year do not lapse but must be carried forward to be used for the purposes stated in this section. [1997, c. 455, §14 (AMD).]

SECTION HISTORY

1983, c. 594, §6 (NEW). 1997, c. 455, §14 (AMD).

§152. ARMORY RENTAL FUND; AUTHORITY TO RENT ARMORIES

1. Fund established. The Armory Rental Fund is established in the Military Bureau as a nonlapsing fund to assist in defraying the operation and maintenance expenses of the Military Bureau's state-owned facilities. Funds in the Armory Rental Fund are in addition to appropriations for these purposes made to the Military Fund.

[1995, c. 684, §2 (NEW); 1995, c. 684, §5 (AFF) .]

2. Rental proceeds. Except as provided in section 353, rental proceeds from the rental of armories under this section must be paid into the State Treasury and credited to the Armory Rental Fund to be used for operation and maintenance expenses at the various state-owned facilities of the Military Bureau. Rental proceeds credited to the Armory Rental Fund are in addition to the appropriations made for operation and maintenance expenses included for that purpose in the Military Fund.

[2003, c. 488, §1 (AMD); 2003, c. 488, §5 (AFF) .]

SECTION HISTORY

1995, c. 684, §2 (NEW). 1995, c. 684, §5 (AFF). 2003, c. 488, §1 (AMD). 2003, c. 488, §5 (AFF).

§153. AUTHORITY TO RENT ARMORIES

The Military Bureau may rent armories for activities that do not conflict with the military training mission. [1995, c. 684, §2 (NEW).]

SECTION HISTORY

1995, c. 684, §2 (NEW).

§154. CAPITAL REPAIR, MAINTENANCE, CONSTRUCTION AND ACQUISITION ACCOUNT

Except as provided in section 353, the Capital Repair, Maintenance, Construction and Acquisition Account is established in the Military Bureau as a nonlapsing fund to assist in defraying the capital repair, maintenance and construction of state-owned properties of the Military Bureau, as well as purchasing land for training sites. The bureau may not spend \$500,000 or more for any single capital repair, maintenance or construction project or land acquisition unless that expenditure is approved in advance by the Legislature. Not later than January 1st of each odd-numbered year, the bureau shall submit a list to the Legislature that identifies the location, nature and cost of each planned capital repair, maintenance and construction project and land acquisition costing less than \$500,000. [2013, c. 469, §2 (AMD).]

SECTION HISTORY

1995, c. 684, §2 (NEW). 2003, c. 488, §2 (AMD). 2003, c. 488, §5 (AFF). 2013, c. 469, §2 (AMD).

§155. REIMBURSEMENT FUND

The Maine National Guard may provide services in accordance with section 181-A, subsections 4 and 5 and section 183 for federal, state, county, regional and municipal governments and agencies and nongovernmental entities and may charge for those services. Except as provided in section 353, the fees collected must first be allocated for funding the cost of providing those services, and any remaining fees may be expended only within the Military Bureau. [2003, c. 488, §3 (AMD); 2003, c. 488, §5 (AFF).]

SECTION HISTORY

1997, c. 455, §15 (NEW). 2001, c. 353, §1 (AMD). 2003, c. 488, §3 (AMD). 2003, c. 488, §5 (AFF).

§156. LORING CENTER OF EXCELLENCE OPERATIONS AND MAINTENANCE FUND

The Loring Center of Excellence Operations and Maintenance Fund is established in the Military Bureau as a nonlapsing fund in order that the Commissioner of the Department of Defense, Veterans and Emergency Management may accept funds from the Department of Defense, Department of the Army, Department of the Air Force, Department of the Navy or the National Guard Bureau, or any instrumentality thereof, as necessary to carry out the purpose of any cooperative agreement between the Military Bureau and the Department of Defense, Department of the Army, Department of the Air Force, Department of the Navy or the National Guard Bureau, or any instrumentality thereof. The Treasurer of the State shall credit all interest on fund balances to the Loring Center of Excellence Operations and Maintenance Fund. [1999, c. 401, Pt. K, §3 (NEW); 2001, c. 374, §9 (AFF).]

SECTION HISTORY

1999, c. 401, §K3 (NEW). 2001, c. 374, §9 (AFF).

§157. MAINE MILITARY AUTHORITY ENTERPRISE FUND

1. Maine Military Authority Enterprise Fund; established. The Maine Military Authority Enterprise Fund is established to fund activities of the Maine Military Authority, established in section 391, including, but not limited to, the following:

- A. Operating the Maine Readiness Sustainment Maintenance Center; and [2003, c. 646, §5 (NEW).]
- B. Maintaining, rebuilding, repairing, storing and manufacturing equipment for the following:
 - (1) The State and its political subdivisions;
 - (2) The United States Department of the Army, Department of the Air Force, Department of the Navy and Department of Homeland Security; and
 - (3) Foreign governments working in conjunction with the foreign military sales program of the United States Department of Defense. [2003, c. 646, §5 (NEW).]

[2003, c. 646, §5 (NEW).]

2. Maine Military Authority Enterprise Fund account. The Military Bureau shall establish, through the Department of Administrative and Financial Services, Bureau of Accounts and Control, the Maine Military Authority Enterprise Fund account. The funds deposited in the account include, but are not limited to, the following:

- A. Appropriations made to the account; [2003, c. 646, §5 (NEW) .]
- B. Funds transferred to the account from within the department; [2003, c. 646, §5 (NEW) .]
- C. Funds received for the purposes stated in subsection 1, paragraph B; [2003, c. 646, §5 (NEW) .]
- D. Earnings from the fund from the Treasurer of State's cash pool; and [2003, c. 646, §5 (NEW) .]
- E. In accordance with applicable law, proceeds from the sale of vehicles and equipment under the administrative control of the Maine Military Authority by the state surplus property program in the Department of Administrative and Financial Services, Bureau of General Services. [2003, c. 646, §5 (NEW) .]

[2003, c. 646, §5 (NEW) .]

3. Receive revenue; expend proceeds. The Adjutant General may receive operating revenues of the Maine Military Authority and expend those proceeds in accordance with section 399.

[2003, c. 646, §5 (NEW) .]

4. Fund flexibility and adjustments. Notwithstanding the provisions of Title 5, section 1585, in order to provide sufficient flexibility to adjust to market forces, adjustments to the Maine Military Authority Enterprise Fund may be made through financial orders recommended to the Governor by the State Budget Officer.

[2005, c. 12, Pt. MMM, §1 (NEW) .]

5. No obligation of state funds. If revenues or other sources of operating funds are not sufficient or available as anticipated for the Maine Military Authority Enterprise Fund, there is no obligation to provide state funds.

[2005, c. 12, Pt. MMM, §1 (NEW) .]

6. Quarterly reports. The Maine Military Authority shall provide quarterly financial statements regarding the Maine Military Authority Enterprise Fund in a format prescribed by the State Controller to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over the Maine Military Authority.

[2005, c. 12, Pt. MMM, §1 (NEW) .]

SECTION HISTORY

2001, c. 374, §7 (NEW). 2003, c. 646, §5 (RPR). 2005, c. 12, §MMM1 (AMD).

§158. MAINE MILITARY FAMILY RELIEF FUND

The Maine Military Family Relief Fund, referred to in this section as "the fund," is established as a nonlapsing fund in the department administered according to rules adopted by the Adjutant General. The Adjutant General is authorized to award loans and grants from the fund for emergencies and other special needs to members or families of members of the Maine National Guard or residents of the State who are members or families of members of the Reserves of the Armed Forces of the United States and to distribute funds to a statewide nonprofit organization established for the purpose of providing assistance to members or families of members of the Maine National Guard or residents of the State who are members or families of members of the Reserves of the Armed Forces of the United States. The Military Bureau shall adopt rules

establishing eligibility criteria for the loans and grants. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2013, c. 424, Pt. A, §29 (AMD) .]

1. We Support Our Troops Advisory Board.

[2011, c. 344, §33 (RP) .]

SECTION HISTORY

2003, c. 703, §2 (NEW). 2009, c. 481, §6 (AMD). 2011, c. 344, §33 (AMD). 2013, c. 424, Pt. A, §29 (AMD).

Subchapter 3: ACTIVATION OF STATE MILITARY FORCES

§181. AUTHORITY TO ACTIVATE

(REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 1989, c. 850, §4 (AMD). 1995, c. 600, §1 (RP).

§181-A. AUTHORITY TO ACTIVATE

1. By order of the Governor. The Governor may order members of the state military forces to active state service in the case of, or imminent danger of, insurrection, invasion, tumult, riot, conspiracy to commit a felony or threat of violence to persons or property or upon the reasonable apprehension thereof; or for the safety of the inhabitants of this State; or, in the case of actual or imminent public disaster, to the aid of any civil authority.

[1995, c. 600, §2 (NEW) .]

2. By order of a justice or sheriff. In case of, or in the event of imminent danger of, insurrection, invasion, tumult, riot or conspiracy to commit a felony, to offer violence to persons or property or by force to break the laws of this State or the United States, a Justice of the Supreme Judicial Court or a Justice of the Superior Court or a county sheriff may request in writing aid from a commanding officer in the state military forces. The commanding officer to whom the request is made shall order out, in aid of the civil authorities, all or part of the military forces under that commanding officer's command and shall immediately report to the Adjutant General and to that commanding officer's military superior for further instructions. The commanding officer may receive only general directions from the civil authority requesting the aid and remains strictly responsible to the commanding officer's military superior for the manner in which the troops are used to accomplish the desired end.

[1995, c. 600, §2 (NEW) .]

3. Upon request of local officials. In the event of an emergency requiring immediate action, the commanding officer, upon written request of the mayor of a city, the municipal officers of a town or a municipality, may order out, for the defense or protection of the community, the forces under the commanding officer's command or any part of those forces. The commanding officer shall immediately report to the Adjutant General and to the commanding officer's immediate commanding officer for further instructions.

[1995, c. 600, §2 (NEW) .]

4. Drug enforcement duties. The Governor may order Maine National Guard members to active state service to support federal drug enforcement operations under the National Defense Authorization Act of 1989.

[1995, c. 600, §2 (NEW) .]

5. Military duty by consent. The Governor, or the Governor's designee, may order a member of the Maine National Guard, with that member's consent, to perform active state service of any nature.

[1995, c. 600, §2 (NEW) .]

SECTION HISTORY

1995, c. 600, §2 (NEW).

§182. PROCLAMATION OF STATE OF INSURRECTION

Whenever any portion of the state military forces is activated in aid of civilian authority and if, in the Governor's judgment, the maintenance of law and order will thereby be promoted, the Governor, by proclamation, may declare the county or municipality receiving the assistance, or any specified portion or combination, to be in a state of insurrection. [1995, c. 600, §3 (AMD) .]

In the event of a proclamation of insurrection, and without limiting any other powers of the Governor, whether inherent or conferred by other existing laws, the Governor may issue rules under the emergency rule-making provisions of the Maine Administrative Procedure Act, Title 5, section 8054 that are reasonable under the circumstances to avert additional damage, destruction, injury or loss of life, including, but not limited to, emergency rules for curfews, the deployment of emergency medical supplies and facilities, evacuations, the closing of liquor, arms, ammunition, explosives or other stores and facilities, access roads, temporary detours and other things, whether of a same or a different nature. [1995, c. 600, §3 (AMD) .]

In the event of the call up of military forces, pursuant to section 181-A, subsection 1, and without limiting any powers expressly and inherently possessed by or otherwise vested in the Governor as Commander in Chief, the Governor or Adjutant General, as the Governor's designee, may petition any Superior Court for ex parte temporary restraining orders to restrain unlawful interference with efforts to maintain peace or preserve life and property. The court may grant appropriate temporary relief. Upon issuance of the order, the Governor shall cause prompt notice of the order and its effect to be broadcast, posted, announced or otherwise publicized so as to reach the persons effected. Any person aggrieved by the order is entitled at any time it is in effect to bring a motion for vacating the order. The motion must lie in the court from which the order was issued and the moving parties shall serve notice of the motion upon the Governor concurrent with it being filed, but, until vacated, the order remains effective according to its terms. [1995, c. 600, §3 (AMD) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §7 (AMD). 1995, c. 600, §3 (AMD).

§183. HUMAN HEALTH EMERGENCIES

Personnel and equipment of the Maine National Guard may be employed in the case of human health emergencies. [1995, c. 600, §4 (AMD) .]

1. Activation of Maine National Guard. In the event of illness, injury, missing persons or loss of life, creating an emergency that requires specialized personnel or equipment of the Maine National Guard to prevent human suffering, increased health risk or loss of life, the Governor or the Governor's designee may order into active state service the necessary personnel and equipment of the Maine National Guard. Human health emergencies may include medical evacuation and search and rescue under Title 6, section 303 and Title

12, section 10105, which may include providing emergency helicopter airlift service. Any person ordered into active state service, for the purposes of this subsection, is considered a state employee for purposes of the Maine Tort Claims Act and that person's liability is limited by that Act.

[2003, c. 414, Pt. B, §69 (AMD); 2003, c. 614, §9 (AFF) .]

2. Immunity from civil liability. In addition to all existing tort immunities enumerated in the Maine Tort Claims Act any person ordered into active state service, for the purposes of this section, is immune from civil liability for damages to the same extent as any person who renders assistance pursuant to Title 14, section 164.

[1995, c. 600, §4 (AMD) .]

3. Accounting. At least 30 days before the end of each fiscal year, the Adjutant General shall prepare an accounting of all expenses incurred pursuant to this section since any prior accounting and shall present this accounting to the Commissioner of Health and Human Services for payment.

[1995, c. 600, §4 (AMD); 2003, c. 689, Pt. B, §7 (REV) .]

4. Reimbursement.

[1995, c. 600, §4 (RP) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §8 (AMD). 1987, c. 334, (AMD). 1995, c. 600, §4 (AMD). 2003, c. 414, §B69 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 689, §B7 (REV).

§184. NOTICE FOR DUTY

Notices for military duty must be given as follows. [1995, c. 600, §5 (AMD) .]

1. When given. Members of the state military forces must receive reasonable prior notice of active state service appropriate to the duty to be performed.

[1995, c. 600, §5 (AMD) .]

2. How given. Notices may be given orally or in writing. Orders conspicuously posted during a regular meeting of the unit, not less than 4 days prior to the date fixed in the order, are sufficient.

[1995, c. 600, §5 (AMD) .]

3. Dates fixed by law. When drill dates have been fixed by law, orders or regulations, no further notice is required.

[1995, c. 600, §5 (AMD) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1995, c. 600, §5 (AMD).

§185. RIGHTS AND LIABILITIES OF MILITARY FORCE MEMBERS

1. Immunity from civil and criminal liability. A member of the state military forces may not be liable civilly or criminally for any act done or caused, ordered or directed to be done by that member while on active state service in the performance of that member's duty. If an action of any nature has been commenced in any

court by any person against an officer or enlisted member of the state military forces for such an act, done or caused, ordered or directed to be done, all expenses of the defense of the action, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, must be paid by the State out of the Military Fund. When the action is civil, it is the duty of the Attorney General to defend that officer or enlisted member. When the action is criminal, the Adjutant General shall designate a judge advocate of the National Guard or other authorized state military or naval force to conduct the defense of the member. If the services of a judge advocate are not available, the Adjutant General shall select some other competent attorney to conduct the defense. In any civil action, the defendant may require the person instituting the action to file security for payment of costs that may be awarded the defendant, which costs, if paid out of the Military Fund, when received, must be paid into the State Treasury and credited to the Military Fund.

[1995, c. 196, Pt. B, §2 (AMD) .]

1-A. Immunity from civil and criminal liability for supervising physician. Subsection 1 applies to the supervising physician of a physician assistant under Title 32, section 2594-B or 3270-B:

A. With regard to any act of the physician assistant in providing services to individuals not on active state service; [2009, c. 587, §1 (NEW) .]

B. When the physician assistant is on active state service in the performance of the physician assistant's duty; and [2009, c. 587, §1 (NEW) .]

C. When the supervising physician is not on active state service. [2009, c. 587, §1 (NEW) .]

[2009, c. 587, §1 (NEW) .]

2. Exemption from arrest. Persons belonging to the state military forces are exempt from arrest as follows.

A. Every person belonging to the state military forces, in all cases except a crime punishable by a maximum term of imprisonment equal to or exceeding one year or breach of the peace, is privileged from arrest while going to, attending or returning from active state service or federal military duty. [2001, c. 662, §22 (AMD) .]

B. On the day of any active state service or federal military duty, no officer or enlisted member may be arrested in a civil action or mesne process, or on a warrant for taxes; nor may that person be arrested on the day of annual Thanksgiving; Patriots' Day; Memorial Day; July 4th; Labor Day; Veterans' Day, November 11th; or Christmas. [2001, c. 662, §22 (AMD) .]

[2001, c. 662, §22 (AMD) .]

3. Exemption from jury duty. Every member of the state military forces, while going to, attending or returning from active state service or federal military duty, is exempt from jury duty. Production of a certificate from the claimant's commanding officer that the person qualifies for the exemption is prima facie proof that the person is entitled to the exemption.

[2001, c. 662, §22 (AMD) .]

4. Rights of a law enforcement officer. A commissioned officer of the state military forces when called to active state service under section 181-A, subsection 1, in addition to such other rights conferred by this chapter and otherwise by law, has the rights, authority and immunities of a law enforcement officer.

[2001, c. 662, §23 (AMD) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §§9,10 (AMD). 1995, c. 196, §B2 (AMD). 1995, c. 600, §6 (AMD). 2001, c. 662, §§22,23 (AMD). 2009, c. 587, §1 (AMD).

§186. INJURIES SUSTAINED IN CONNECTION WITH MILITARY DUTY

1. Compensation as state employee. A member of the state military forces receives compensation as a state employee according to the provisions of Title 39-A and this section.

A. Duty status is as follows.

(1) The types of duty that are covered are:

(a) Active state service as defined by section 101-A, whether performed with or without compensation.

(2) The types of duty that are not covered are:

(d) Federal technician civilian duty under the United States Code, Title 32, Section 709; and

(e) Military duty performed pursuant to the United States Code, Title 10. [2001, c. 662, §24 (AMD).]

B. Types of injuries cognizable are as follows:

(1) The injury, disability or disease must have been received, incurred or contracted while in active state service;

(2) Service members must be under the control and supervision of the military. Incidents occurring during periods of leave or pass are not compensable; and

(3) An injury, disability or disease received not incident to duty or contracted with willful negligence or misconduct is not compensable. [2001, c. 662, §24 (AMD).]

C. Preconditions for benefits under Title 39-A are as follows:

(1) Federal income maintenance benefits must be applied for and, if they exceed comparable Title 39-A benefits, must be exhausted by the member before receiving weekly compensation benefits under Title 39-A. Medical care at military or Veterans' Administration facilities, civilian care paid for by the military forces and other benefits furnished by the military force or the Veterans' Administration, including military programs offered to retrain or occupationally rehabilitate the service member, must be used before entitlement to benefits under Title 39-A. Military programs are fully creditable under Title 39-A in an approved plan of rehabilitation; and

(2) Title 39-A benefits are based on inability to perform the service member's usual occupation. [2001, c. 662, §24 (AMD).]

D. For the purpose of calculation of compensation, average weekly wage must be computed solely on the earning capacity of the injured member in the occupation in which that member is regularly engaged. In case of death, dependents are entitled to compensation as provided in Title 39-A and any amendments to that Title. [2001, c. 662, §24 (AMD).]

E. If the member is eligible for military or Veterans' Administration care and knowingly declines or through the member's actions forfeits rights to federal care benefits, the member is not entitled to compensation for civilian care under Title 39-A. [2001, c. 662, §24 (AMD).]

F. All federal benefits received by the member as a result of an injury, disability or disease are considered to be derived from the employer and constitute a setoff to compensation awarded as a result of this section. A dollar-for-dollar setoff is authorized for all benefits to include continuation of federal pay and allowances, incapacitation pay, severance pay, disability retirement pay, Veterans' Administration disability payments and military and Veterans' Administration death benefits. [2001, c. 662, §24 (AMD).]

G. Reporting pursuant to Title 39-A does not have to be initiated until a final decision is reached on the injured service member's entitlement to federal benefits or while military or veterans' disability benefits are received in lieu of compensation under Title 39-A, whichever ceases first. Veterans' disability benefits provided in this subsection include state military duty pay received under section 143, federal continuation pay or incapacitation pay in lieu of benefits under Title 39-A. The time provisions of Title 39-A commence upon notification to the service member that federal benefits are not authorized, or the gross monetary federal benefits are determined to be less than the entitlements under Title 39-A without taking into account the setoff prescribed in paragraph E. [2001, c. 662, §24 (AMD).]

[2001, c. 662, §24 (AMD) .]

2. Average weekly wage; death benefits.

[1987, c. 271, (RP) .]

3. Setoff.

[1987, c. 271, (RP) .]

4. Federal pay status.

[1987, c. 271, (RP) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1987, c. 271, (RPR). 1987, c. 769, §§A162,A163 (AMD). 1991, c. 885, §E44 (AMD). 1991, c. 885, §E47 (AFF). 1995, c. 196, §B3 (AMD). 2001, c. 662, §24 (AMD).

§187. BOUNDS AND LIMITS OF CAMPS

The bounds and limits of camps may be fixed and intrusion within those limits may be restricted as follows. [1983, c. 460, §3 (NEW).]

1. Fixing the limits. Every commanding officer on duty may fix necessary bounds and limits to his camp or parade. In doing so, he may not prevent passage along a through road. By order of the Governor, the commanding officer may, as described in subsection 2, restrict use or passage through an extended area not more than 1/2 mile around the camp. The owners of land within that surrounding security area and their agents shall not be prevented from using, occupying or improving their land in the same manner as they were accustomed to do at the time the camp was occupied.

[1983, c. 460, §3 (NEW) .]

2. Confinement of intruders. Any person who intrudes within the fixed limits after being forbidden, or resists a sentinel attempting to put or keep him out of those limits, or disturbs, interrupts or otherwise hinders the passage of troops or the discharge of their duty, may be confined under guard for up to 14 hours at the discretion of the commanding officer.

[1983, c. 460, §3 (NEW) .]

3. Intoxicating beverages. The commanding officer of any camp or armory may prohibit the introduction or sale of any intoxicating beverage within the necessary or extended limits of the camp or armory.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§188. CLOSING OF STORES

(REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 2003, c. 583, §6 (RP).

§189. REEMPLOYMENT RIGHTS

(REPEALED)

SECTION HISTORY

1983, c. 594, §11 (NEW). 1987, c. 285, §2 (RP).

Subchapter 4: SPECIAL PROVISIONS GOVERNING STATE MILITARY FORCES OTHER THAN THE NATIONAL GUARD

§221. OTHER STATE MILITARY COMPONENTS

1. Organization. When necessary to provide for the adequate protection of the State, the Governor as Commander in Chief may organize as components of the state military forces an adequate number of Army and Navy units for the length of time which he directs. Those components shall consist of the militia, the naval militia and the Maine State Guard.

[1983, c. 460, §3 (NEW) .]

2. Duties. In the event of the organization of other forces described in subsection 1, those units may be ordered by the Governor to perform duties which he directs, including duties that the National Guard would be called to perform, consistent with this chapter and other applicable laws.

[1983, c. 460, §3 (NEW) .]

3. Maine Code of Military Justice. All persons serving in the militia, naval militia and Maine State Guard shall be subject to the Maine Code of Military Justice while in an active state duty status.

[1983, c. 460, §3 (NEW) .]

4. Applicability of provisions.

[2001, c. 662, §25 (RP) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §25 (AMD).

§222. MILITIA

The militia shall consist of all able-bodied citizens of the State, or able-bodied persons who have declared their intention to become citizens of the United States, who are at least 18 years of age and not more than 45 years of age, and who are enrolled pursuant to section 225, or who have been enlisted, appointed or commissioned. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§223. NAVAL MILITIA

1. Composition. The naval militia of the State of Maine shall consist of such persons as may be enlisted, appointed or commissioned therein from the militia.

[1983, c. 460, §3 (NEW) .]

2. Administration. The Commander in Chief may organize the forces prescribed in subsection 1 as he deems proper. When in his judgment the efficiency of the naval militia will be increased thereby, or whenever public interest may demand it, he may alter, reorganize or disband any or all of the naval militia. He may, at any time, change the organization of the naval militia so as to conform to any organization, or system of drill or instruction adopted for the United States Navy, and increase and decrease for that purpose the number of officers, warrant officers, chief petty officers, petty officers and enlisted men and to change their grades, titles and designations.

The system of administration, drill and instruction of the naval militia shall conform, as nearly as practicable, to that of the United States Navy.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§224. MAINE STATE GUARD

The Governor may organize and maintain within this State in time of peace or war or other emergency, the Maine State Guard, which organization and maintenance of the Maine State Guard shall be consistent with federal regulations prescribing the organization, standard of training, instruction and discipline of state military forces. [1983, c. 460, §3 (NEW).]

1. Composition. When activated, the Maine State Guard shall be composed of those persons enlisted, appointed or commissioned from the militia and other able-bodied citizens of the State and such other able-bodied soldiers and sailors who have previously served honorably in the United States Armed Services or the National Guard. A person may not become a member of the Maine State Guard, if he is a member of the National Guard or any component of the United States Armed Forces, active or reserve.

[1983, c. 460, §3 (NEW) .]

2. Administration; rules. The Governor may from time to time prescribe rules not inconsistent with this section, for the enlistment, designation and location of units, and the organization, administration, equipment, maintenance, training and discipline of the Maine State Guard. The organization shall not conflict with the laws of the United States or of this State as applicable to the state military forces, generally. These rules, insofar as the Governor deems practicable and desirable, shall conform to existing laws, rules and regulations pertaining to the National Guard. The oath to be taken by officers and enlisted men in the Maine State Guard shall be substantially the same as that prescribed for officers and enlisted men of the National

Guard. The words "Maine State Guard" shall be substituted where necessary. The term of service of officers or enlisted men in the Maine State Guard shall be the same as that prescribed for officers and enlisted men of the National Guard.

[1983, c. 460, §3 (NEW) .]

3. Officers; appointment; authority. The Governor, acting by and through the Adjutant General, shall appoint officers for such units and organizations of the Maine State Guard as he may establish in conformance with applicable federal regulations, and these officers shall, subject to removal by the Commander in Chief, exercise the same military authority over their several commands as officers of the National Guard.

[1983, c. 460, §3 (NEW) .]

4. Pay and allowances. The pay and allowances of members of the Maine State Guard when called to active state service are the same as provided in section 143. When the Maine State Guard is organized for inspection and drill purposes only, no pay is authorized.

[2001, c. 662, §26 (AMD) .]

5. Requisitions. For the use of the Maine State Guard, the Governor may requisition from the United States Secretary of the Army arms, ammunition, clothing and equipment which the United States Secretary of the Army in his discretion, and under regulations determined by him, may issue and may make available to the Maine State Guard the facilities of state armories and their equipment and other state premises and property which are available.

[1983, c. 460, §3 (NEW) .]

6. Enlistment of civil groups. No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league or other combination of persons or civil group may be enlisted in the Maine State Guard as an organization or unit.

[1983, c. 460, §3 (NEW) .]

7. Federal service. Nothing in this subsection may be construed as authorizing the Maine State Guard or any part thereof, to be called, ordered or in any manner drafted as a unit into the military service of the United States. No person may, by reason of his enlistment or commission in the Maine State Guard, be exempted from military service under any law of the United States.

[1983, c. 460, §3 (NEW) .]

8. Disqualifications. No person may be commissioned or enlisted in the Maine State Guard who has been expelled or dishonorably discharged from any military or naval organization of this State, of another state or of the United States, or who has been convicted of a felony in any court of this State, of another state or of the United States.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §26 (AMD).

§225. ENROLLMENT OTHER THAN NATIONAL GUARD

1. Citizen enrollment; penalty for noncompliance. Each citizen who is more than 18 years of age and less than 45 years of age, unless exempted by order of the Governor, who is a resident of this State, shall, whenever the Governor deems it necessary, be enrolled with the militia. Each citizen shall be enrolled in the municipality in which he resides by the assessor or assessors for that municipality according to rules which the Governor may prescribe.

Any person knowingly refusing to give required information concerning himself or another person who is required to be enrolled, or giving false information to an assessor making the enrollment, is for each act of concealment, refusal or falsification guilty of a Class E crime. Within 10 days, the assessor making the enrollment shall report all persons violating this subsection to the Adjutant General.

[1983, c. 460, §3 (NEW) .]

2. Exemptions. The Vice-President of the United States; judicial and executive officers of the government of the United States and of the several states and territories; persons in the military or naval service of the United States; customhouse clerks; persons employed by the United States in the transmission of the mail, artificers and workmen employed in the armories, arsenals and navy yards of the United States; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States, shall be exempt from militia duty without regard to age. All persons, who because of religious belief, claim exemption from militia service, if the conscientious holding of that belief by that person shall be established under regulations prescribed by the President, shall be exempted from militia service in a combatant capacity. A person exempted because of religious beliefs shall not be exempt from militia service in a capacity that the President declares to be noncombatant.

[1983, c. 460, §3 (NEW) .]

3. Burden of proof in exemption. Any person claiming exemption shall satisfy the assessor of his right to the exemption. In case of doubt, the burden of proof shall be upon the person claiming exemption. The assessor may require him to submit to examination under oath and may administer the oath.

[1983, c. 460, §3 (NEW) .]

4. Responsibilities of assessor and clerk; penalty for failure to perform. On the roll, opposite the name of each person who is exempt from duty under subsection 2, or who is serving in the active state or federal military forces, or who is unable by reason of physical disability to perform military duty, the assessor shall write the word "exempt" and state in each case the cause of the exemption. The assessor shall subscribe the list and make oath that the list is true to the best of his knowledge and belief, and shall immediately file the list with the clerk of the municipality. Within 10 days, the clerk shall make a certified statement of the total number enrolled, the number marked exempt with the reason for exemption and the number in active service. The clerk shall forward the statement to the Military Bureau. Any assessor neglecting or refusing faithfully to perform the enrolling duties required by law, making a false entry upon the rolls or committing any other related fraud and any clerk neglecting to make and forward the statement required is guilty of a Class E crime.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW).

Subchapter 5: UNIFORMS AND EQUIPMENT

§261. OFFICERS PROVIDE OWN UNIFORMS AND EQUIPMENT

All commissioned officers and warrant officers in the state military forces shall provide themselves with uniforms and equipment required by federal regulation. The Adjutant General may purchase and issue as state property on memorandum receipt or sell for cash to these officers the necessary uniforms and equipment. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§262. EXEMPTION FROM ATTACHMENT AND DISTRESS

The clothes, arms, military outfit and accoutrements furnished by or through the State to, or required of, a member of the state military forces are not subject to any civil action, distress, execution or sale for debt or payment of taxes. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§263. REPAIR OF EQUIPMENT

The Adjutant General shall make arrangements for the necessary repair, cleansing and renovation of all clothes, arms, military outfits or accoutrements of the state military forces. If the repair, cleansing or renovation is due to the negligence of a member, the cost shall be charged against pay due, or to become due, to the member or recovered in the same manner as a forfeiture under the Maine State Code of Military Justice. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§264. INSPECTION AND CONDEMNATION

1. Sale of property; proceeds. The Adjutant General shall designate an officer to inspect military property, real and personal, and may condemn any inspected property that the Adjutant General determines to be unfit for use by the military. Property condemned under this subsection may be sold by the Adjutant General. Real property condemned under this subsection may not be sold for less than its appraised value as determined by a person licensed as a real estate appraiser under Title 32, chapter 124.

All proceeds from the sale of condemned property must be paid into the State Treasury and credited to the Capital Repair, Maintenance, Construction and Acquisition Account of the Military Bureau established under section 154.

[2013, c. 469, §3 (AMD) .]

2. Designation of property; sale. The Adjutant General may sell an armory or other real property of the Military Bureau if the Adjutant General has:

- A. Completed the appraisal required under subsection 1; and [1995, c. 684, §3 (NEW).]
- B. Except as provided in subsection 3, obtained approval of the Legislature to sell that armory or other real property. For the purposes of this subsection, the term "approval of the Legislature" means the enactment by the Legislature and signing by the Governor of a resolve authorizing the sale of that armory or other real property. [1995, c. 684, §3 (NEW).]

All proceeds of the sale of an armory or other real property under this subsection must be paid into the State Treasury and credited to the Capital Repair, Maintenance, Construction and Acquisition Account of the Military Bureau established under section 154.

[2013, c. 469, §4 (AMD) .]

3. Exceptions; authorization to sell. Notwithstanding subsection 2, paragraph B, the Adjutant General is authorized to sell the following armories and parcel of land:

- A. The Brunswick Armory; [2007, c. 167, §1 (AMD) .]
- B. The Newport Armory; [1995, c. 684, §3 (NEW) .]
- C. The Rumford Armory; [1995, c. 684, §3 (NEW) .]
- D. [1997, c. 783, §1 (RP) .]
- E. The South Portland Armory; [1997, c. 783, §1 (AMD) .]
- F. The Millinocket Armory; [2001, c. 353, §2 (AMD) .]
- G. A 6 1/2-acre parcel of land located on the northeasterly side of U.S. Route One across from the Belfast Armory and part of the parcel of land described in the Waldo County Registry of Deeds, Book 411, Page 446; [2001, c. 662, §27 (AMD) .]
- H. The Caribou Armory, located at 55 Bennett Drive, Caribou, for market value but not including the organizational maintenance shop, known as OMS5, nor the metal storage building; [2003, c. 404, §3 (AMD) .]
- I. The Fort Fairfield Armory located at 25 Columbia Street, Fort Fairfield by means of a quitclaim deed, subject to all easements of record, to the inhabitants of the Town of Fort Fairfield for the sum of \$1 as long as the inhabitants of the Town of Fort Fairfield agree to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise from the land or buildings constituting the Fort Fairfield Armory and this transfer is determined to be a transfer for not less than appraised value as specified in subsection 1 in view of the economic conditions of northern Aroostook County, the financial contributions made by the Town of Fort Fairfield to the armory and the environmental conditions existing at the site; [2007, c. 167, §1 (AMD) .]
- J. The Saco Armory located at 75 Franklin Street, Saco, Maine, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; [2007, c. 167, §1 (AMD) .]
- K. The Bath Armory, or any portion thereof, located on Lincoln Street, Bath, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; [2009, c. 406, §1 (AMD) .]
- L. The Portland Armory located on Stevens Avenue, Portland, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; [2007, c. 167, §1 (NEW) .]
- M. The Westbrook Armory located on Stroudwater Street, Westbrook, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; [2007, c. 167, §1 (NEW) .]
- N. The Presque Isle Armory located on North Main Street, Presque Isle, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; [2009, c. 406, §2 (AMD) .]

O. The Caribou Armory, also known as the "Solman Armory," located on York Street, Caribou, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; [2009, c. 406, §3 (AMD).]

P. The Fort Kent Armory, located on Armory Road, Fort Kent, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; and [2009, c. 406, §4 (NEW).]

Q. The Gardiner Armory, located on Brunswick Avenue, Gardiner, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory. [2009, c. 406, §5 (NEW).]

[2009, c. 406, §§1-5 (AMD).]

4. Easements and rights-of-way. Notwithstanding subsection 2, the Adjutant General may, with written approval of the Governor, grant easements and rights-of-way on real property held by the Military Bureau.

[1995, c. 684, §3 (NEW).]

5. Special provisions for the Portland Armory. Notwithstanding subsection 1, the Adjutant General may execute a like-kind exchange of the Portland Armory, or any portion thereof, located on Stevens Avenue, Portland, for real property of substantially equal value, subject to the provisions of subsection 3, paragraph L.

[2009, c. 406, §6 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1995, c. 684, §3 (RPR). 1997, c. 783, §1 (AMD). 1999, c. 185, §6 (AMD). 2001, c. 353, §§2,3 (AMD). 2001, c. 559, §PP1 (AMD). 2001, c. 662, §§27-29 (AMD). 2003, c. 342, §3 (AMD). 2003, c. 404, §§3-5 (AMD). 2003, c. 688, §A42 (AMD). 2007, c. 167, §1 (AMD). 2009, c. 406, §§1-6 (AMD). 2013, c. 469, §§3, 4 (AMD).

§265. STATE EQUIPMENT; OBSOLETE ORDNANCE ISSUED TO MUNICIPALITIES

(REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §30 (RP).

§266. PROHIBITED ACTS

1. Destruction of equipment. The penalties for destruction of equipment are as follows.

A. Any person who knowingly or recklessly destroys, injures or defaces any article of military property belonging to the State or the United States, or uses it for an unauthorized purpose, or has or retains the property in violation of law or rule is guilty of a Class E crime. [1987, c. 208, §1 (NEW).]

B. In case an officer or enlisted man of the state military forces through carelessness or inattention loses, destroys or causes the loss or destruction of government property which has been issued for his use, the Adjutant General shall retain, out of the pay, allowances or money due the officer or enlisted man for any military services an amount equal to the value of the property lost or destroyed. That portion of the

money which is for state property shall be turned in to the Treasurer of State and credited to the Military Fund. That portion which is for United States property shall be turned into the United States Treasury and credited to the State on its property returns. [1987, c. 208, §1 (NEW).]

[1987, c. 208, §1 (RPR) .]

2. Equipment not to be sold. Except as otherwise provided by law, the clothes, arms, military outfits and accoutrements furnished by or through the State to any member of the state military forces shall not be sold, bartered, exchanged, pledged, loaned or given away. Any unauthorized person who has possession of clothes, arms, military outfits or accoutrements furnished as a result of unlawful disposition shall have no right, title or interest in them. Those items may be seized as contraband by a civil officer of the State and shall be delivered to a commanding officer or other officer authorized to receive them, who shall make an immediate report to the Adjutant General. The possession of the clothes, arms, military outfits or accoutrements by any person not a member of the military forces of the State or of the United States shall be prima facie evidence of unauthorized sale, barter, exchange, pledge, loan or gift.

A. Any person who knowingly sells or offers for sale, barter, exchanges, pledges, loans or gives away, secretes or who retains, after demand made by any civil or military officer of the State, any clothes, arms, military outfits or accoutrements furnished by or through the State to a member of the state military forces is guilty of a Class E crime. [1987, c. 208, §2 (NEW).]

B. Whoever knowingly receives by purchase, barter, exchange, pledge, loan or gift any such clothes, arms, military outfits or accoutrements commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. [1987, c. 208, §2 (NEW).]

[1987, c. 208, §2 (RPR) .]

3. Uniform forbidden to unauthorized persons. It is unlawful for any person not an officer or enlisted man in the federal or state military forces to wear the duly prescribed uniform of any military forces or any distinctive part of the uniform, or a uniform any part of which is similar to a distinctive part of a prescribed uniform. This subsection shall not be construed to prevent authorized persons from wearing the uniforms. The term "distinctive part of the uniform" in this subsection shall be construed to mean such parts of the uniform as may be designated as "distinctive" by the regulations of the federal military establishment. Violation of this subsection is a Class E crime.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §12 (AMD). 1987, c. 208, §§1,2 (AMD).

Subchapter 6: CONSTRUCTION OF MILITARY FACILITIES

§301. ACQUISITION OF PROPERTY FOR CONSTRUCTION OF MILITARY FACILITIES

1. Duty of municipal officers.

[2001, c. 662, §31 (RP) .]

2. Gifts to the State. The Governor or the Adjutant General, or both, may accept, in the name of the State, donations of real estate and personal property to be used for military purposes by the state military forces upon such conditions as the donor may prescribe. The Governor may prescribe further rules pertaining to donated property.

[2001, c. 662, §32 (AMD) .]

3. Eminent domain. The Adjutant General may acquire real property by right of eminent domain in the manner prescribed by law for the taking of land for highway purposes, and both real and personal property by purchase, gift or otherwise, for the purpose of construction or maintenance of armories, airports, shipyards and other military facilities, including the building or improvement and maintenance of railroads or roads necessary for the more efficient use of these facilities for military purposes and the procuring of equipment and supplies for military purposes.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §§13,14 (AMD). 2001, c. 662, §§31,32 (AMD).

§302. CONSTRUCTION OF ARMORIES

1. By the State. Whenever the Military Fund is sufficient, the Adjutant General may, with the approval of the Governor, erect armories and other necessary buildings.

[2001, c. 662, §33 (AMD) .]

2. By municipalities.

[2001, c. 662, §34 (RP) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §§33,34 (AMD).

§303. PAYMENT OF STATE EXPENSES

(REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §15 (RP).

§304. RENT FOR USE OF ARMORIES

(REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §15 (RP).

§305. USE OF ARMORIES LIMITED

(REPEALED)

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §15 (RP).

§306. TAX EXEMPTION

All real estate and personal property owned or leased by the State, by any municipality, or by any organization of the state military forces and used for military purposes is exempt from all taxation during the period of that ownership or lease and use. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§307. PENALTY FOR VIOLATION OF THIS SECTION

Any municipal officer who fails to comply with this subchapter is guilty of a Class E crime. Any fine imposed under this section shall be paid into the State Treasury and credited to the General Fund. [1983, c. 594, §16 (RPR).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §16 (RPR).

Subchapter 7: PENALTIES

§341. PROSECUTION OF OFFENSES

Unless otherwise provided, offenses described in this chapter except where committed by a person subject to the Maine Code of Military Justice or the United States Uniform Code of Military Justice, may be prosecuted by complaint or indictment before a court of competent criminal jurisdiction. All fines and forfeitures collected under this chapter and not otherwise specifically provided for shall be paid into the State Treasury and credited to the General Fund. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§342. PROHIBITED ACTS; PENALTIES

1. Failure of civil officers to perform duties. A civil officer named in this chapter, who neglects or refuses to obey the provisions of this chapter, is guilty of a Class E crime.

[1983, c. 460, §3 (NEW) .]

2. Other military organizations prohibited. No group of persons, other than federal or state military forces, may join together as a military organization or parade in public with firearms. Associations of historical military reenactors may parade in public with firearms with authorization of the city or town officials in the municipality in which they wish to parade. Students in educational institutions where military science is taught, as a prescribed part of the course of instruction, may drill and parade with firearms in public under the supervision of their military instructors.

Any person violating this subsection is guilty of a Class E crime.

[2001, c. 662, §35 (AMD) .]

3. Enlistment of minors into the military. Any person who knowingly enlists, or causes or induces, a person under the age of 18 years to enlist into the state military forces without written consent of his parent or guardian is guilty of a Class E crime.

[1983, c. 460, §3 (NEW) .]

4. Obstruction of the right-of-way. The commander of any part of the state military forces parading or performing any military duty in any street or highway may require any or all persons to yield the right-of-way to his troops, provided that the transport of the United States mail, the legitimate functions, progress and operations of police, ambulances, firefighters and other authorized emergency vehicles shall not be interfered with by the troops.

Anyone who hinders, delays or obstructs any portion of the state military forces when parading or performing their military duty, or who attempts to do so, is guilty of a Class E crime.

[1983, c. 460, §3 (NEW) .]

5. Employment; leave of absence. It is unlawful for any public or private employer to penalize any member of the National Guard or the Reserves of the United States Armed Forces, with regard to compensation, hiring, tenure, terms, conditions, or privileges of employment or to deny any other incident or advantage of employment due to the employee's membership or participation in the National Guard or the Reserves of the United States Armed Forces.

A. Any person, including an employer described in this subsection, who willfully deprives a member of the National Guard or the Reserves of the United States Armed Forces, of the member's employment, prevents the member's employment, interferes with the member's employment rights as described in this subsection, or otherwise obstructs the member or the member's employer with respect to the member's occupation or business because of the member's membership in the National Guard or the Reserves of the United States Armed Forces, or who dissuades any person from enlisting in, the National Guard or the Reserves of the United States Armed Forces by threat of injury to the member's occupation or business, is guilty of a Class E crime. [2001, c. 662, §36 (AMD) .]

B. All officials and employees of the State who are members of the National Guard or the Reserves of the United States Armed Forces must have a leave of absence not to exceed 17 work days each calendar year from their respective duties, without loss of pay or time, when performing military duty and without loss of time or leave for all other military duty, during which the members are so engaged. [2003, c. 583, §7 (AMD) .]

[2003, c. 583, §7 (AMD) .]

6. Discrimination against members of the National Guard or Reserves of the United States Armed Forces. Anyone who discriminates against personnel of the National Guard or the Reserves of the United States Armed Forces must be punished as follows.

A. No association or corporation organized to promote the trade, occupation or business of its members may by a rule or act discriminate against any member of the National Guard or the Reserves of the United States Armed Forces with respect to the member's eligibility for membership in the association or corporation, nor the member's right to retain the member's membership. Whoever aids in enforcing a rule or action against a member of the National Guard or the Reserves of the United States Armed Forces, with intent to discriminate against the member, is guilty of a Class E crime. [2001, c. 662, §37 (AMD) .]

B. Whoever without good cause discriminates against any uniformed member of the National Guard or the Reserves of the United States Armed Forces with respect to the enjoyment of any public place of amusement, the use of any public conveyance, access to public lodging or the receipt of other services generally available to the public is guilty of a Class E crime. [2001, c. 662, §37 (AMD) .]

[2001, c. 662, §37 (AMD) .]

7. Interference with members in performance of duties. Whoever intentionally molests, abuses or interferes with any member of the National Guard or the Reserves of the United States Armed Forces in the performance of the member's duty is guilty of a Class E crime.

[2001, c. 662, §37 (AMD) .]

8. Unauthorized use of military insignia.

[2001, c. 662, §38 (RP) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §17 (AMD). 1987, c. 263, §1 (AMD). 2001, c. 662, §§35-38 (AMD). 2003, c. 583, §7 (AMD).

§343. PARENTAL RIGHTS AND RESPONSIBILITIES; PARENT ON ACTIVE DUTY

1. Departure under military orders. A court may not consider departure from the family residence or absence from the child or children as an adverse factor in determining parental rights and responsibilities with respect to a minor child when the departing parent is a member of the National Guard or the Reserves of the United States Armed Forces under an order to active duty for a period of more than 30 days and whose absence is due to compliance with military orders.

[2005, c. 353, §4 (NEW) .]

2. Change of residence of child prohibited when parent under military orders. A court may not order a change of the primary physical residence of a child when one of the child's parents is a member of the National Guard or the Reserves of the United States Armed Forces under an order to active duty for a period of more than 30 days and whose absence from the State is due to compliance with military orders unless the change is in the best interest of the child.

[2005, c. 353, §4 (NEW) .]

3. Application. This section applies only if the service of the member referred to in subsection 1 or subsection 2 is in support of:

A. An operational mission for which members of the reserve components have been ordered to active duty without their consent; or [2005, c. 353, §4 (NEW) .]

B. Forces activated during a period of war declared by Congress or a period of national emergency declared by the President or Congress. [2005, c. 353, §4 (NEW) .]

[2005, c. 353, §4 (NEW) .]

SECTION HISTORY

2005, c. 353, §4 (NEW) .

Subchapter 7-A: MAINE NATIONAL GUARD EDUCATION ASSISTANCE PROGRAM PROGRAM HEADING: PL 2003, C. 488, §4 (NEW); §5 (AFF)

§351. MAINE NATIONAL GUARD EDUCATION ASSISTANCE PROGRAM

There is established the Maine National Guard Education Assistance Program, referred to in this subchapter as "the program." [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF) .

§352. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

1. Course. "Course" means a class taught over a semester, trimester, quarter or term.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

2. Degree program. "Degree program" means a course of study designed to culminate in a specific degree, diploma or certificate.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

3. Member. "Member" means a member of a federally recognized unit of the Maine National Guard.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

4. State postsecondary education institution. "State postsecondary education institution" means the University of Maine System, the Maine Maritime Academy, the Maine Technical College System or any other college or university system established as a public instrumentality of this State.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

5. Tuition. "Tuition" means the total semester, trimester, quarter or term or credit hour cost of instruction to the student as periodically published in the catalog of a state postsecondary education institution, including mandatory fees and lab fees but excluding all other expenses such as book charges, room and board.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

6. Tuition benefit. "Tuition benefit" means tuition provided by the Maine National Guard using either state or federal funds.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

7. Unsatisfactory participant. "Unsatisfactory participant" means a member who has accumulated 9 or more unexcused absences from unit training assemblies or who, without proper authorization, fails to attend or complete the entire period of annual training.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF).

§353. TUITION GRANT FOR MEMBER

A member who meets the prerequisites of section 354 is entitled to a tuition benefit that may not exceed tuition costs incurred at any state postsecondary education institution. A member who attends classes in Maine at a regionally accredited private Maine college or university is entitled to a tuition benefit that may not exceed the tuition costs incurred at that private college or university or a tuition benefit not to exceed tuition assessed for a similar degree program at any state postsecondary education institution, whichever is less. Notwithstanding any other provision of law, the Maine National Guard shall use federal funds; state general funds not to exceed \$5,000 in any fiscal year; or state funds from the Armory Rental Fund as established in section 152, the Capital Repair, Maintenance, Construction and Acquisition Account as established in section 154 or the reimbursement fund as established in section 155 or from revenue generated by the Maine Military Authority to pay tuition benefits. [2013, c. 469, §5 (AMD).]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF). 2013, c. 469, §5 (AMD).

§354. MINIMUM PREREQUISITES

To qualify for the tuition benefit, the member must: [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

1. Basic training. Have successfully completed basic training or received a commission;

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

2. Participant. Be a satisfactory participant in the Maine National Guard; and

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

3. Contractual commitment. Enter into a written contractual commitment with the Maine National Guard to serve in the Maine National Guard for at least one year beyond the end of the term for which a tuition benefit is granted.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF).

§355. CESSATION OF TUITION BENEFIT

The tuition benefit granted under this subchapter for a member ceases upon: [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

1. Credit hours. Accumulation of 150 credit hours or the equivalent of the tuition benefit as provided in this subchapter;

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

2. Unsatisfactory participation. Unsatisfactory participation in the Maine National Guard as certified to the state postsecondary education institution or regionally accredited private college or university by the Adjutant General; or

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

3. Good academic standing. Failure by the member to maintain good academic standing at the state postsecondary education institution or regionally accredited private college or university.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF).

§356. RESTITUTION

Repayment of the tuition benefit is required pursuant to this section. [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

1. Failure to complete. A member shall pay the full amount of a tuition benefit for each course during the preceding semester, trimester, quarter or term that:

A. The member fails to complete; or [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

B. The member completes but for which the member earns a grade lower than 2.0 on a 4.0 scale.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

2. Repay tuition. If the member becomes an unsatisfactory participant or does not remain in good academic standing with the state postsecondary education institution or regionally accredited private college or university, then the member shall repay the full amount of a tuition benefit for all courses taken during the preceding semester, trimester, quarter or term to the Maine National Guard.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

3. Restitution. If the member does not fulfill the member's contractual commitment to the Maine National Guard under section 354, subsection 3, then the Adjutant General shall notify the member in writing that the member is liable for restitution and the member shall repay the full amount of the tuition benefit for the last school year.

[2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF) .]

A member may appeal the requirement to make restitution pursuant to this section if the member files a written notice of intent to appeal with the Adjutant General within 30 days of notice that the member is liable for restitution. During the pendency of the appeal, the requirement of restitution is postponed. If the Adjutant General determines that the member met the requirements for restitution as described in subsection 1, 2 or 3 and that there were not sufficient extenuating circumstances to excuse the failure of the member to complete satisfactorily the course or participation in the Maine National Guard, the Adjutant General shall inform the member of this determination and the member shall make restitution for those courses for which the Adjutant General determines the member is liable. The decision of the Adjutant General is final and may not be appealed. [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF).

§357. INSTATE TUITION RATES

Regardless of the state of residence, a member who has met the requirements of this subchapter and is attending a state postsecondary education institution qualifies for instate tuition rates. [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF).

§358. APPLICATION

This subchapter applies to school semesters, trimesters, quarters or terms beginning on or after May 1, 2003. [2003, c. 488, §4 (NEW); 2003, c. 488, §5 (AFF).]

SECTION HISTORY

2003, c. 488, §4 (NEW). 2003, c. 488, §5 (AFF).

Subchapter 8: MISCELLANEOUS PROVISIONS

§381. FRESH PURSUIT

Except as provided in this section, no component of the state military forces, except the National Guard when called to federal service, may leave the State and no military organization of another state, unless acting under authority of the United States, may enter the State, except by permission of the Governor or the Adjutant General. [2001, c. 662, §39 (AMD).]

1. By state military forces. A component of the state military forces may, upon the order of the officer in immediate command, continue in fresh pursuit of insurrectionists, saboteurs or enemy forces into another state until those persons are apprehended or until the military or police forces of the other state or forces of the United States have had a reasonable opportunity to apprehend those persons, provided that the other state has given authority by law for that pursuit by forces of this State. Any person who is apprehended in another state by any element of the state military forces shall be surrendered without unnecessary delay to the military or police forces of that state or of the United States. That surrender shall not constitute a waiver by this State of its right to extradite or prosecute the person for a crime committed in this State.

[1983, c. 460, §3 (NEW) .]

2. By forces of other states. A component of the military forces of another state, which is in fresh pursuit of insurrectionists, saboteurs or enemy forces, may continue the pursuit into this State until the military or police forces of this State or the forces of the United States have had reasonable opportunity to apprehend these persons. The state military forces of the other state are authorized to detain persons apprehended while in fresh pursuit in this State. Any person who is detained in this State by military forces of the other state shall be surrendered without unnecessary delay to the military or police forces of this State to be dealt with according to law. This subsection shall not be construed to make unlawful any arrest in this State which would otherwise be lawful.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW). 2001, c. 662, §39 (AMD).

§382. REGISTRATION OF ALIENS DURING TIME OF WAR

Whenever a state of war exists or is imminent between the United States and a foreign country, the Governor may by proclamation direct every citizen or subject of that foreign country within this State to personally appear within 24 hours after the proclamation or within 24 hours after his arrival in this State, whichever is later, before the public authorities named by the Governor in the proclamation. At that time the citizen or subject of the foreign country shall register his name, residence, business, length of stay and other information which the Governor may prescribe in the proclamation. [1983, c. 460, §3 (NEW).]

The person in control of each hotel, inn, boardinghouse, rooming house and private residence within the State shall within 24 hours after the proclamation notify the public authorities of the presence in their establishment of every citizen or subject of that foreign country, and shall each day notify the public authorities of the arrival and departure of those persons. Failure to comply with the requirements of the Governor's proclamation or to do or perform any of the acts provided in this section is a Class E crime. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§383. AWARDS, MEDALS AND PRIZES

The Governor may prescribe the award of medals, prizes, citations and other suitable means of public recognition for distinguished service, longevity, marksmanship, acts of valor, dependability, meritorious achievement and other qualities. The awards may be made to members of the state military forces or to

individuals not members who have rendered appropriate service to the military establishment. The Governor shall promulgate rules to carry out this section. Expenses for procurement of these awards shall be provided from the Military Fund. [1983, c. 594, §18 (RPR).]

SECTION HISTORY

1983, c. 460, §3 (NEW). 1983, c. 594, §18 (RPR).

§384. FLAG TO BE CARRIED

The flag of the State to be carried by the National Guard shall be the same as the flag described in Title 1, section 206, with addition of a scroll in red below the coat of arms of the State bearing the inscription, "Maine National Guard." [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§385. NATIONAL GUARD GROUP LIFE INSURANCE

The Adjutant General may enter into insurance agreements with insurance companies for group life insurance on behalf of each participating national guardsman called to state active duty and to pay from departmental funds the cost of each individual's premium for that insurance. [1983, c. 460, §3 (NEW).]

Any insurance agreement entered into under this authority shall be reviewed and approved by the Superintendent of Insurance before it becomes effective. All insurance policies shall be issued by an insurance company licensed by the Bureau of Insurance to do business in the State. [1983, c. 460, §3 (NEW).]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§386. NATIONAL GUARD ASSOCIATION

1. Commissioned officers. The commissioned officers of the National Guard may organize themselves into an association. The name of the association shall be the "National Guard Association of the State of Maine." The association may adopt and amend a constitution and bylaws, not repugnant to law, orders or regulations. The association may take and hold real and personal property necessary for the purposes of the association.

[1983, c. 460, §3 (NEW) .]

2. Enlisted personnel. The enlisted personnel of the National Guard may organize themselves into an association. The name of the association shall be the "Enlisted National Guard Association of the State of Maine." The association may adopt and amend a constitution and bylaws, not repugnant to law, orders or regulations. The association may take and hold real and personal property necessary for the purposes of the association.

[1983, c. 460, §3 (NEW) .]

SECTION HISTORY

1983, c. 460, §3 (NEW).

§387. STAY OF FORCIBLE ENTRY AND DETAINER DURING MILITARY SERVICE

1. General rule. Whenever any member of the National Guard or the Reserves of the United States Armed Forces is ordered to military duty in response to federal or state orders, a forcible entry and detainer action may not be made of the premises occupied chiefly for dwelling purposes by the military member or any military family member or other dependents, except upon leave of court granted upon application for such an action.

[2001, c. 662, §40 (NEW) .]

2. Stay of proceedings. In an action brought pursuant to subsection 1, the court may on its own motion or upon the motion of the military member or military family member, stay the proceedings if in the opinion of the court the ability of the military member or military family member to pay the rent is materially affected by reason of the military service. The court may make such other order as may be just under the circumstances, including an order postponing full payment of the rent.

[2001, c. 662, §40 (NEW) .]

3. Impact on landlords. When a stay or other order is made pursuant to this section by the court, the owner of the premises is entitled upon application to such relief as the court determines just and equitable under the circumstances, including an order of the military member or military family member to pay the arrearage in rent upon the release from military service to the extent and for such a period as may appear to the court just.

[2001, c. 662, §40 (NEW) .]

SECTION HISTORY

2001, c. 662, §40 (NEW).

§388. EDUCATIONAL LEAVE OF ABSENCE

Whenever any member of the National Guard or the Reserves of the United States Armed Forces is ordered to military duty in response to federal or state orders, the educational institution in which the member is enrolled shall grant the member a military leave of absence from the educational institution. Upon release from military duty, a person on military leave of absence from an educational institution is entitled to be restored to the educational status that person had attained prior to being ordered to military duty without loss of academic credits earned, scholarships or grants awarded to tuition, room and board and other fees paid prior to the commencement of military duty. The educational institution shall proportionately refund tuition, room and board and other fees paid or credit them to the next semester or term after the termination of the educational military leave of absence, at the option of the member. [2001, c. 662, §40 (NEW) .]

SECTION HISTORY

2001, c. 662, §40 (NEW).

§389. STAY OF PROCEEDING FOR MILITARY MEMBERS

(REPEALED)

SECTION HISTORY

2001, c. 662, §40 (NEW). 2003, c. 404, §6 (RPR). 2005, c. 353, §5 (RP).

§389-A. SERVICE MEMBERS' CIVIL RELIEF

1. Short title. This section may be known and cited as "the Maine Servicemembers' Civil Relief Act."

[2005, c. 353, §6 (NEW) .]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Court" means any administrative agency, civil court or venue of a proceeding involving a case management officer. [2005, c. 353, §6 (NEW) .]

B. "Service member" means a member of the uniformed services as that term is defined in 10 United States Code, Section 101(a)(5) or a member of the state military forces as that term is described in section 102, on active state service as that term is defined in section 101-A. [2005, c. 353, §6 (NEW) .]

[2005, c. 353, §6 (NEW) .]

3. Stay of proceeding. Any action or proceeding in any court in which a service member is involved, either as plaintiff, defendant or attorney, if the plaintiff, defendant or attorney is a member of the National Guard or the Reserves of the United States Armed Forces, during the period of any military service or within 60 days after any military service, at the discretion of the court, or by the member's own motion or motion of the court, may be stayed at any stage of the proceeding unless, in the opinion of the court, the ability of the plaintiff to prosecute the action, the defendant to conduct the defendant's defense or the attorney to represent either party is not materially affected by reason of the member's military service, except that an action or proceeding involving a child may not be stayed unless the stay is in the best interest of the child.

[2005, c. 353, §6 (NEW) .]

4. Appearance. An application for a stay of a court or administrative proceeding pursuant to the Servicemembers' Civil Relief Act of 2003, 50 United States Code App. Sections 501 to 596, or this section does not constitute an appearance for any purpose.

[2005, c. 353, §6 (NEW) .]

5. Electronic means; testimony and evidence. Upon motion of a service member who is a party in a civil case, the court shall allow the service member to present testimony and evidence by electronic means when the military duties of the service member have a material effect on the service member's ability to appear in person at a regularly scheduled hearing, unless good cause is shown. For purposes of this subsection, "electronic means" includes, but is not limited to, telephone, video teleconference and the Internet.

[2005, c. 353, §6 (NEW) .]

6. Expedited hearing. Upon motion of a service member who is a party in a civil case, the court shall hold an expedited hearing when the military duties of the service member have a material effect on the service member's ability to appear in person at a regularly scheduled hearing, unless good cause is shown.

[2005, c. 353, §6 (NEW) .]

7. Transfer of parent-child contact rights. Upon motion of a service member, or upon the court's own motion, in a case involving parent-child contact, the court shall allow the service member to temporarily transfer the service member's contact rights to a relative, by blood or marriage, who has a significant

connection with the child or children when the military duties of the service member have a material effect on the ability of the service member to exercise those rights, unless the transfer is not in the best interest of the child.

[2005, c. 353, §6 (NEW) .]

SECTION HISTORY

2005, c. 353, §6 (NEW).

§390. DEFERRED MOTOR VEHICLE INSURANCE COVERAGE

1. Applicability. This section applies whenever any member of the National Guard or the Reserves of the United States Armed Forces is ordered to military duty in response to federal or state orders for 30 or more consecutive days.

[2001, c. 662, §40 (NEW) .]

2. Deferral of coverage. A member of the military forces as described in subsection 1 may defer without cost or penalty motor vehicle insurance coverage during the period of military duty on one or more vehicles owned by the member, either individually or jointly with another person, as long as the member certifies to the insurer that the vehicle will not be operated during the member's absence on military duty and, if a motor vehicle serves as collateral for a loan, the member must continue to insure it against the risks of property damage and theft as required by the lender.

[2001, c. 662, §40 (NEW) .]

3. Refund or crediting of prepaid premiums. The insurer shall, at the election of the member, refund premiums paid for coverage during the period of deferral or credit those premiums to coverage in effect after the end of the deferral period.

[2001, c. 662, §40 (NEW) .]

4. Reinstatement of deferred coverage. Upon the member's release or discharge from military duty, the insurer shall, upon notice, reinstate the member's coverage at the rates in effect on the date of reinstatement.

[2001, c. 662, §40 (NEW) .]

SECTION HISTORY

2001, c. 662, §40 (NEW).

§390-A. WAIVER OF CONTINUING EDUCATION REQUIREMENTS; EXTENSION OF LICENSE, CERTIFICATE OR REGISTRATION

1. Definitions. As used in this section, unless the context otherwise indicates, "active duty for a period of more than 30 days" has the same meaning as in 10 United States Code, Section 101(d)(2).

[2005, c. 111, §3 (NEW) .]

2. Waiver of continuing education requirements. Notwithstanding any other provision of law, except as provided in Title 12, section 6311 a person who is a member of the National Guard or the Reserves of the United States Armed Forces under an order to active duty for a period of more than 30 days and who was licensed, registered or certified to engage in a profession or occupation prior to entering into active duty for a

period of more than 30 days may not be required to complete the continuing education requirements for that profession or occupation for any licensing, registration or certification period during that period of active duty and for 6 months after that person is released from active duty.

[2005, c. 111, §3 (NEW) .]

3. Automatic extension of license, certificate or registration. Notwithstanding any other provision of law, except as provided in Title 12, section 6311 a person who is a member of the National Guard or the Reserves of the United States Armed Forces under an order to active duty for a period of more than 30 days and who was licensed, certified or registered to engage in a profession or occupation prior to being called to active duty for a period of more than 30 days and whose license, certificate or registration expires during that period of active duty must have that license, certificate or registration automatically extended for the period of active duty and for 6 months after that person has been released from active duty.

[2005, c. 111, §3 (NEW) .]

4. Limited application. This section applies only if the member's service is in support of:

A. An operational mission for which members of the Reserves of the United States Armed Forces have been ordered to active duty without their consent; or [2005, c. 111, §3 (NEW) .]

B. Forces activated during a period of war declared by the United States Congress or a period of national emergency declared by the President of the United States or the United States Congress. [2005, c. 111, §3 (NEW) .]

[2005, c. 111, §3 (NEW) .]

SECTION HISTORY

2005, c. 111, §3 (NEW).

§390-B. REIMBURSEMENT FOR PURCHASE OF SUPPLEMENTAL LIFE INSURANCE

A member of the National Guard or the Reserves of the United States Armed Forces assigned to a unit located in the State who serves in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom during any month in the 2006 calendar year is eligible to receive reimbursement for the cost of the monthly premium for supplemental life insurance offered by the Federal Government from the Commissioner of Defense, Veterans and Emergency Management in an amount up to \$16.25 per month for each month in 2006 that member serves in either theater of operations and for which that member purchases supplemental insurance. [2005, c. 519, Pt. W, §2 (NEW) .]

SECTION HISTORY

2005, c. 519, §W2 (NEW).

§390-C. ADMINISTRATION OF OATHS AND NOTARIAL ACTS

1. Power to administer oaths. A commissioned or warrant officer of the state military forces and other personnel of the state military forces authorized to administer oaths under the laws of this State may administer oaths for the purpose of the administration of military justice and for other purposes of military administration, including administering enlistment oaths to persons enlisting or reenlisting in the National Guard. A commissioned or warrant officer of the United States Armed Forces may administer enlistment oaths to persons enlisting or reenlisting in the National Guard.

[2013, c. 178, §1 (NEW) .]

2. Powers of notary public. A judge advocate or paralegal serving in the state military forces has, by virtue of the judge advocate's or paralegal's office and service, the powers of a notary public in the performance of all notarial acts to be executed for any member of the state military forces or United States Armed Forces or spouse of a member of the state military forces or United States Armed Forces. A fee may not be paid to or received by any person for the performance of a notarial act authorized in this subsection. The signature of any such person acting as a notary, together with that person's official title, is prima facie evidence that the signature is genuine, that the person holds the designated title and that the person is authorized to perform a notarial act. A notarization or acknowledgment accomplished under the authority of this subsection must generally follow the form below but is not required to be under official seal:

I, (name of notary public), certify that the foregoing instrument was subscribed and (sworn/affirmed) before me this (day of the month) day of (month), (year) by (name of person making statement), (state military forces or United States Armed Forces service number/social security number), and who is known to me to be (a member of the state military forces or United States Armed Forces/the spouse of a member of the state military forces or United States Armed Forces).

[2013, c. 178, §1 (NEW) .]

SECTION HISTORY

2013, c. 178, §1 (NEW).

Subchapter 9: MAINE MILITARY AUTHORITY HEADING: PL 2001, C. 374, §8 (NEW)

§391. MAINE MILITARY AUTHORITY ESTABLISHED

The Maine Military Authority is established within the Executive Department. [2003, c. 646, §6 (RPR) .]

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 342, §4 (AMD). 2003, c. 646, §6 (RPR).

§392. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 374, §8 (NEW) .]

1. Authority. "Authority" means the Maine Military Authority.

[2001, c. 374, §8 (NEW) .]

2. Operating revenues.

[2003, c. 646, §7 (RP) .]

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 646, §7 (AMD).

§393. MAINE MILITARY AUTHORITY OPERATION

The Adjutant General operates the authority under the direction of the Governor and may: [2001, c. 374, §8 (NEW) .]

1. Execute agreements. Execute cooperative agreements between the Maine National Guard and the Federal Government or its instrumentalities or agencies;

[2001, c. 374, §8 (NEW) .]

2. Contract with various entities. Contract with the Federal Government or its instrumentalities or agencies, the State or its agencies, instrumentalities or municipalities, foreign governments, public bodies, private corporations, partnerships, associations and individuals;

[2001, c. 374, §8 (NEW) .]

3. Accept financial assistance. Accept, through the normal budgetary process, financial assistance and in-kind assistance, advances, loans, grants, gifts, contributions and other forms of financial assistance from the Federal Government and the State Government or its agencies, from municipalities or other public bodies or from other sources, public or private;

[2003, c. 646, §8 (AMD) .]

4. Provide money for upkeep. Provide from operating revenues money for the maintenance, construction or reconstruction of capital repair and replacement items as necessary and approved by the Legislature;

[2003, c. 646, §8 (AMD) .]

5. Acquire property. Acquire for use by the authority real or personal property or any interest in real or personal property, including rights or easements, on either a temporary or permanent basis, by gift, purchase, transfer, lease or otherwise, subject to the approval of the Legislature;

[2003, c. 646, §8 (AMD) .]

6. Dispose of property. In accordance with applicable state law, hold, sell, lease, rent or otherwise dispose of any real or personal property, or any interest in real or personal property, and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, and these proceeds become and remain operating revenues except that the Adjutant General may not sell any interest in real property without following the provisions of section 264;

[2003, c. 646, §8 (AMD) .]

7. Procure insurance. Procure insurance through the Risk Management Division against any loss in connection with property of the authority and other assets in amounts and from insurers that the Director of Risk Management determines necessary or desirable to protect the State from risks or losses; and

[2003, c. 646, §8 (AMD) .]

8. Take all other lawful action. Take all other lawful action necessary and incidental to the powers in this subchapter.

[2001, c. 374, §8 (NEW) .]

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 646, §8 (AMD).

§394. EMPLOYEES

1. Employees. The Adjutant General may employ technical experts and other agents and employees, permanent or temporary, for the authority. Such employees are subject to the Civil Service Law.

[2003, c. 646, §9 (AMD) .]

2. Service at pleasure of Adjutant General. The executive director and general manager serve at the pleasure of the Adjutant General.

[2001, c. 374, §8 (NEW) .]

3. Legal services. The Office of the Attorney General shall provide legal services for the authority, or, with the permission of the Adjutant General, retain outside counsel.

[2003, c. 646, §9 (AMD) .]

4. Establish positions. By financial order, the Adjutant General may establish positions necessary to support the operations of the Maine Readiness Sustainment Center in Limestone or to maintain, repair, store and manufacture equipment under section 157. In order for a position that is established by financial order to become permanent, it must be presented to the next session of the Legislature through the normal budgetary process. As a result of their limited nature, positions funded by the operating revenues of the Maine Military Authority Enterprise Fund are not included as a part of the overall position count of state government operations.

[2005, c. 12, Pt. MMM, §2 (AMD) .]

5. Employee administration. Notwithstanding the provisions of Title 26, section 979-A, subsection 5, the Governor shall direct the authority to develop and execute employee relations policies, conduct negotiations with certified and recognized bargaining agents for its employees and administer and interpret the collective bargaining agreements applying to the employees of the authority consistent with the overall objectives of the Governor. The Department of Administrative and Financial Services, Bureau of Human Resources shall assist and advise the Governor and the authority, in order to ensure compliance with state and federal labor and employment laws consistent with the overall objectives of the Governor. Employees of the authority are essential employees for the purpose of shutdown or furlough days imposed on employees of the State.

[2007, c. 240, Pt. HH, §16 (AMD) .]

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 646, §9 (AMD). 2005, c. 12, §MMM2 (AMD). 2007, c. 240, Pt. HH, §16 (AMD).

§395. BOOKS AND RECORDS

The Adjutant General shall ensure the accurate and timely maintenance of books, records, accounts and other evidences of the financial transactions of all the authority's activities in accordance with accounting standards established by a governmental accounting standards board and the State Controller. Books and records must be open to inspection and audit by the Maine National Guard, the State Auditor and the Federal Government audit in conjunction with federal contracts, agreements, grants or cooperative agreements but are otherwise confidential and not subject to Title 1, chapter 13, subchapter 1. The State Auditor shall periodically conduct an audit of the financial records of the authority and report the results of the audit to the Adjutant General, the State Controller, the Governor and the Legislature. The Adjutant General may maintain

the required books, records, accounts and other evidences of the financial transactions of all of the authority's activities or enter into service agreements or contracts with departments and agencies of State Government for that purpose. [2003, c. 646, §10 (AMD).]

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 646, §10 (AMD).

§396. BUDGET

The Adjutant General shall establish a budget for the authority and shall present that budget to the Governor and the Legislature. [2003, c. 646, §11 (AMD).]

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 646, §11 (AMD).

§397. REPORT

The Adjutant General shall report by February 15th of the first regular session of each Legislature to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and defense, veterans and emergency management matters. The report must include information about the operation of the authority, its budget and the distribution of profits generated by the authority. [2001, c. 374, §8 (NEW).]

SECTION HISTORY

2001, c. 374, §8 (NEW).

§398. PROPERTY EXEMPT FROM EXECUTION

(REPEALED)

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 646, §12 (RP).

§399. REVENUE

Revenue generated by the authority must first be used to support the operation of the authority, including segregation of money for future capital repairs. At the close of the fiscal year, unreserved retained earnings as identified by the State Controller may be transferred at any time prior to the closing of the books to: [2013, c. 251, §4 (NEW).]

1. Capital repairs; tuition assistance. An account established within the Military Bureau to be used for capital repairs, maintenance, construction and acquisition of state military facilities and Maine National Guard tuition assistance;

[2013, c. 469, §6 (AMD) .]

2. Official representation funds. An account established within the Military Bureau to be used for official representation funds, in an amount not to exceed \$10,000 annually;

[2013, c. 251, §4 (NEW) .]

3. Unfunded priorities. An account established within the Military Bureau to be used for the Adjutant General's unfunded priorities, in an amount not to exceed \$10,000 annually; and

[2013, c. 251, §4 (NEW) .]

4. Maine National Guard Foundation Fund. An account established within the Military Bureau to be used for the Maine National Guard Foundation Fund or its successor fund, in an amount not to exceed \$10,000 annually.

[2013, c. 251, §4 (NEW) .]

SECTION HISTORY

2001, c. 374, §8 (NEW). 2003, c. 646, §13 (AMD). 2013, c. 251, §4 (RPR). 2013, c. 469, §6 (AMD).

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